

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2008-031021-001 DT

03/12/2012

HON. SHERRY K. STEPHENS

CLERK OF THE COURT  
K. Molina  
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

KIRK NURMI  
JENNIFER L WILLMOTT

VICTIM SERVICES DIV-CA-CCC

MINUTE ENTRY

The Court has considered the defendant's Motion to Dismiss State's Notice of Intent to Seek the Death Penalty; Speedy Trial and Effective Assistance of Counsel filed December 29, 2011, the State's Response to Motion to Dismiss State's Notice of Intent to Seek the Death Penalty; Speedy Trial and Effective Assistance of Counsel filed January 13, 2012, and the oral argument of counsel on March 9, 2012.

On December 22, 2011, this court allowed the defendant's second counsel, Victoria Washington, to withdraw due to a conflict of interest. At that time, trial was set for February 21, 2012. Jennifer Willmott was subsequently appointed as the second counsel for the defendant. At the status conference on January 3, 2012, the Court granted an oral motion by the defense to continue the trial due to the recent appointment of Ms. Willmott. Defendant Arias agreed to the continuance and the exclusion of time. The trial was reset to October 17, 2012. All time was excluded. See minute entry dated January 3, 2012. Defendant now asserts the State's Notice of Intent to Seek the Death Penalty should be dismissed because, to assure she had effective representation by counsel, Defendant Arias had to agree to the continuance of the trial to October, 2012.

In granting the continuance, this court found that delay of the trial was indispensable to the interests of justice so that newly appointed counsel would have sufficient time to prepare for

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trial. See Rule 8.4, *Arizona Rules of Criminal Procedure*. Under these circumstances, the defendant's right to competent and prepared counsel trumps her right to a speedy trial. *See, State v. Clark*, 196 Ariz. 530, 544, 2 P.3d 89 (App. 1999), review denied (court does not err in continuing matter to allow defense counsel adequate time to prepare even though defendant insisted on immediate trial); *State v. Smith*, 146 Ariz. 325, 326-27, 705 P.2d 1376 (App. 1985). The Court finds no basis to dismiss the death penalty allegation on this ground.

**IT IS ORDERED** denying the defendant's Motion to Dismiss State's Notice of Intent to Seek the Death Penalty; Speedy Trial and Effective Assistance of Counsel filed December 29, 2011.

The Court has considered the defendant's Motion *in Limine* to Preclude References to Mr. Alexander as the "Victim" filed November 29, 2011, the Objection to Motion *in Limine* to Preclude References to Mr. Alexander as the "Victim" filed on December 12, 2011, and the oral argument of counsel on March 9, 2012. In the motion, Defendant requests this court preclude the State from referring to Travis Alexander as the "victim" during the trial. Specifically, Defendant Arias argues she would be prejudiced by permitting the State and its witnesses to refer to Mr. Alexander as the victim since it is contrary to her claim of self defense. As such, she would be prejudiced. The State responds that the term "victim" is routinely used in criminal cases and does not imply the defendant committed the crime with which she has been charged. Further, the State argues Mr. Alexander was murdered and thus he was a "victim" of a criminal offense as defined by Arizona law.

The Court finds the defendant failed to establish she will be prejudiced if Mr. Alexander is referred to as the "victim" in front of the jury during the trial. The State's evidence will show Mr. Alexander was the victim of a homicide. Apparently, the defendant will argue she acted in self defense and was thus justified in her actions. Regardless, referring to Mr. Alexander as the "victim" during the trial will not unfairly prejudice the defendant. At the request of the defendant, the court will give an appropriate preliminary jury instruction to define the word "victim" for the jury. This will address any potential prejudice that could result from use of the word "victim" during the trial. The defendant shall file a requested instruction twenty days before trial.

**IT IS ORDERED** denying the Motion *in Limine* to Preclude References to Mr. Alexander as the "Victim" filed November 29, 2011.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.